

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

**SCHNEIDER ENGINEERING CORP.)
d/b/a/ THE SCHNEIDER)
CORPORATION,)**

Plaintiff,)

vs.)

**CASE NO. 3:10-0453
JUDGE NIXON/KNOWLES**

**ALPHA LLC,)
Defendant.)**

ORDER

This matter is before the Court *sua sponte* with regard to an issue concerning the Court's jurisdiction. "[E]very federal court, whether trial or appellate, is obliged to notice want of subject matter jurisdiction on its own Motion." *Things Remembered, Inc. v. Petrarca, Inc.*, 516 U.S. 124, 132 n.1 (Ginsburg, J., concurring). *See also Answers in Genesis of Kentucky, Inc., v. Creation Ministries International, Ltd.*, 556 F.3d 459, 465 (6th Cir. 2009) ("[F]ederal courts have a duty to consider their subject matter jurisdiction in regard to every case and may raise the issue *sua sponte*.").

Plaintiff has invoked the jurisdiction of the Court under 28 U.S.C. § 1332(a)(1) (diversity of citizenship). Plaintiff identifies itself as corporation organized and existing under the laws of the State of Indiana, with its principal place of business located in Indiana. Docket No. 1, p. 1. The Complaint identifies Defendant as "a limited liability company duly organized and existing under the laws of the State of Tennessee with its principal place of business located in Franklin,

Tennessee.” *Id.*, p. 2. The allegations regarding Defendant, however, are not sufficient to establish that this Court has diversity jurisdiction of this action. The citizenship of a limited liability company is determined by the citizenship of each of its members, and not with regard to the state in which it is incorporated or the state in which it has its principal place of business.

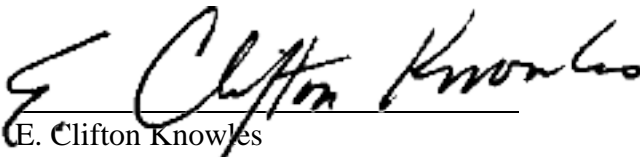
See

Delay v. Rosenthal Collins Group, LLC, 585 F.3d 1003, 1005 (6th Cir. 2009).

The burden of establishing the existence of diversity jurisdiction rests upon Plaintiff, which has invoked the Court’s jurisdiction. *McNutt v. General Motors Acceptance Corp.*, 298 U.S. 178, 189 (1936).

Within twenty (20) days of the entry of this Order, Plaintiff shall file a Response to this Order addressing the points discussed above and establishing that the Court does, in fact, have subject matter jurisdiction of this action. Defendant may, but is not required to, file a Reply to Plaintiff’s Response within fifteen (15) days after the filing of Plaintiff’s Response.

IT IS SO ORDERED.



E. Clifton Knowles
United States Magistrate Judge